

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHOWERS OF HERBS, LLC; and
CHRISTOPHER TUCKER,

Case No. 23-11122

Plaintiffs,

F. Kay Behm
United States District Judge

v.

DEPARTMENT OF HOMELAND
SECURITY; FEDERAL BUREAU OF
INVESTIGATION; THE PENTAGON; and
MARCELINO PAULME,

Defendants.

**ORDER GRANTING IN PART PLAINTIFFS' MOTION TO
PROCEED *IN FORMA PAUPERIS* (ECF No. 2) AND
SUMMARILY DISMISSING PLAINTIFF'S COMPLAINT (ECF No. 1)**

I. PROCEDURAL HISTORY

Plaintiffs, proceeding *pro se*, filed a complaint against the U.S. Department of Homeland Security, the Federal Bureau of Investigation, the Pentagon, and Marcelino Paulme on May 11, 2023. (ECF No. 1). Plaintiffs' allegations and supporting exhibits are lengthy and appear to allege general wrongdoing involving the "CIA Military Complex." (*Id.*, PageID.5). Plaintiffs list the following under the section of their complaint seeking relief:

“Network Centric Warfare, Electronic Harassment, lost of limb, Gang Stalking, Gang Mobbing, Attacking my family.”

(*Id.*, PageID.6).

Plaintiffs filed an initial application to proceed *in forma pauperis* on May 11, 2023. (ECF No. 2). As an initial matter, only natural persons may qualify for treatment *in forma pauperis* under 28 U.S.C. § 1915. *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 196 (1993). Likewise, Showers of Herbs, LLC cannot proceed *in forma pauperis*, and their application is **DENIED**. As to Plaintiff Christopher Tucker, the court finds the application supports his claim and **GRANTS** his application to proceed *in forma pauperis*. However, for the reasons set forth below, the court **DISMISSES** Plaintiffs' complaint without prejudice because it is frivolous and fails to state a claim upon which relief could be granted.

II. ANALYSIS

Because Plaintiff Tucker is proceeding *in forma pauperis*, his claims are subject to the screening standards established in 28 U.S.C. § 1915(e)(2). *Brown v. Bargery*, 207 F.3d 863, 865-66 (6th Cir. 2000). This subsection was included by Congress with an understanding that “a litigant whose filing fees and court costs are assumed by the public, unlike a paying litigant, lacks an economic incentive to

refrain from filing frivolous, malicious, or repetitive lawsuits.” *Neitzke v. Williams*, 490 U.S. 319, 324 (1989). Under this subsection, a claim may be dismissed by the court if it is “(i) frivolous or malicious, (ii) fails to state a claim on which relief may be granted, or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

Pursuant to Federal Rule of Civil Procedure 8(a), a pleading must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This standard “does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). A claim must also have “facial plausibility,” meaning it includes facts sufficient to allow a court to “draw the reasonable inference that the defendant is liable for the misconduct.” *Id.*

After a careful review of Plaintiffs’ complaint, the court is unable to discern any cognizable cause of action. Plaintiffs’ statement of their claim includes allegations such as: “Telling me same as CIA in 2016, anything but laws. The script premeditated,” “After my wife and I married in the Philippines they started the game to make it look like it’s in my head, I don’t have an evil thought,” and “CIA Military Complex Hitting everyone telling everyone how to do their lawsuit.” (ECF

No. 1, PageID.5). From these statements, the court is wholly unable to discern any concrete harm that could be redressed by judicial action. Further, Plaintiffs' complaint fails to mention any of the Defendants by name or demonstrate how their actions could reasonably be related to Plaintiffs' alleged injuries. Likewise, Plaintiffs' complaint is dismissed as to Plaintiff Tucker pursuant to 28 U.S.C. § 1915(e)(2).

As to Plaintiff Showers of Herbs, because they cannot proceed *in forma pauperis*, their claims are not subject to the screening standards in 28 U.S.C. § 1915(e)(2). *Benson v. O'Brian*, 179 F.3d 1014, 1016 (6th Cir. 1999) (“§ 1915(e)(2) applies only to *in forma pauperis* proceedings.”). Nevertheless, “a district court may, at any time, *sua sponte* dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999) (citations omitted). A claim is frivolous where “it lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 U.S. at 325 (citing *Anders v. California*, 386 U.S. 738 (1967)). The Sixth Circuit has stressed that *sua sponte* dismissal is “appropriate only in the rarest of circumstances where...the complaint is deemed totally implausible.”

Apple, 183 F.3d at 480. As stated above, Plaintiffs' complaint contains only unclear, rambling allegations and fails to include any facts supporting a legal basis for relief. Likewise, Plaintiffs' complaint also meets the standard for *sua sponte* dismissal pursuant to Fed. R. Civ. P. 12(b)(1).

III. CONCLUSION

After a careful review of Plaintiffs' complaint, the court finds that it is both frivolous and fails to state any claim upon which relief could be granted. Therefore, while Plaintiffs' application to proceed *in forma pauperis* is **GRANTED IN PART**, their complaint is **DISMISSED** without prejudice.

SO ORDERED.

Date: May 25, 2023

s/ F. Kay Behm

F. Kay Behm

United States District Judge